

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

FRANK THOMAS,

Plaintiff,

-vs-

ROSS FISHER, et al.,

Defendants.

Case No. CIV-23-1006-F

ORDER

On October 8, 2024, United States Magistrate Judge Shon T. Erwin issued a Supplemental Report and Recommendation (doc. no. 36), recommending the seventh cause of action in plaintiff’s Second Amended Complaint be dismissed.

The court is in receipt of plaintiff’s “Objection” to the Supplemental Report and Recommendation. Doc. no. 38. Plaintiff objects to the Supplemental Report and Recommendation to the extent it attempts to undermine the court’s September 27, 2024 order (doc. no. 30) by suggesting the dismissal of the John Doe Defendants—LCF medical staff unknown. In addition, while plaintiff does not agree with Magistrate Judge Erwin’s previous assessment of his sixth cause of action, which was dismissed by the court’s September 27, 2024 order, or his current assessment of plaintiff’s seventh cause of action, plaintiff moves to dismiss both causes of action. Further, plaintiff requests the court to instruct the court clerk to provide plaintiff the necessary summonses for service of process and to direct service of process be made on the defendants by the U.S. Marshal.

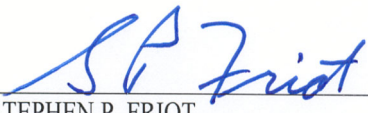
In accordance with 28 U.S.C. § 636(b)(1), the court has conducted a *de novo* review of the matter. The court finds the Supplemental Report and Recommendation does not suggest the dismissal of the John Doe Defendants—LCF medical staff

unknown. In light of this finding, and in light of the fact that plaintiff agrees to, and requests, the dismissal of the seventh cause of action, the court concludes the Supplemental Report and Recommendation should be accepted, adopted, and affirmed.

With respect to service of process, the court advises plaintiff that such matter will be handled by Magistrate Judge Erwin in due course.

Accordingly, the Supplemental Report and Recommendation (doc. no. 38) issued by United States Magistrate Judge Shon T. Erwin is **ACCEPTED**, **ADOPTED**, and **AFFIRMED**. Claim Seven alleged by plaintiff Frank Thomas in the Second Amended Complaint is dismissed, pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1), for failure to state a claim upon which relief may be granted. The court clerk shall terminate defendants David Cole and Major Hood from this lawsuit.

DATED this 28th day of October, 2024.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE